

HARRIS BEACH PLC
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April 20, 2023

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Via ECF

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Hon. Judge Paul E. Davison
The Hon. Charles L. Brieant Jr.
Federal Building and Courthouse
300 Quarropas Street
White Plains, New York 10601

RE: Santander Consumer USA, Inc. v. Yonkers, et al.
Docket No. 7:22-cv-08870 (KMK)(PED)

Dear Magistrate Judge Davison:

This Letter is provided by the Defendant City of Yonkers (“City”) in reply to an April 13, 2023 Letter to you from the Attorneys for the Plaintiff Santander Consumer, USA, Inc. (“Santander”). This Letter is submitted pursuant to Your Honor’s Rules. In summary, Santander complains about a lack of production by the City when the production made by the City is all the responsive documents that the City has at this time. More significantly, however, the further production of any responsive documents can only come from a Non-Party that Santander did not name as a Party, namely the County of Westchester Office of the District Attorney.

Unlike other cases that have been filed by Santander against the City, this is the first case known to involve a seizure of a vehicle incident to a criminal arrest. In such cases, the County of Westchester by its District Attorney (“District Attorney”) handles all matters immediately after the arrest concerning disposition of the subject vehicle. The District Attorney determines as, if, and when such a vehicle is returned to the owner or other interested party. The District Attorney determines the need for further holding of the vehicle. The District Attorney alone gives direction regarding the release of the Subject Vehicle.

Those are policies of the District Attorney and not the City. The City has already provided the contract that exists with vehicles towed by the City Parking Violations Bureau (“PVB”). Yet, any agreements, policies or procedures once a vehicle is seized pursuant to a criminal arrest are matters for the District Attorney alone to determine and produce documentation. Such matters are the proper subject of a Non-Party Subpoena to the District Attorney and not the City.

The seizure, holding and release of the subject vehicle incident to an arrest are whatever policies, procedures, customs and practices of the District Attorney. The City does not and cannot produce information for those actions taken or not taken by the District Attorney. The City has already provided all responsive information. Simply stated, Santander did not name as a Party to this Litigation the appropriate entity that has and can produce the Discovery sought. That is not the fault of the City. All of the foregoing was explained in written detail to the Attorneys for Santander prior to this Reply Letter being provided to Your Honor.

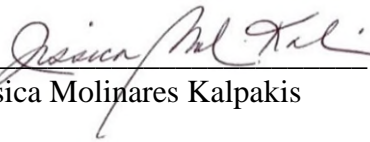
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Thank you for your time and consideration of the issues herein this Letter.

Respectfully Submitted,

HARRIS BEACH PLLC

By: 
Jessica Molinares Kalpakis

JM:ya

cc: All Attorneys of Record via ECF